

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**INNOVATION VENTURES, LLC**  
**d/b/a LIVING ESSENTIALS,**

*Plaintiff,*

vs.

**N.V.E., INC.,**

*Defendant.*

**HONORABLE LAWRENCE P. ZATKOFF**

**CIVIL ACTION NO. 08-11867**

MARK A. CANTOR (P32661)  
PHYLLIS GOLDEN MOREY (P40765)  
THOMAS W. CUNNINGHAM (P57899)  
BRIAN C. DOUGHTY (P71652)  
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**LIVING ESSENTIALS' UNOPPOSED MOTION  
FOR LEAVE TO FILE A SURREPLY ON SUMMARY JUDGMENT**



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On May 20, 2009, NVE, Inc. ("NVE") filed its Reply Brief in Support of NVE's Motion for Summary Judgment to Cancel Plaintiff's 5 Hour Energy Trademark Registration on the Basis of Fraud. In its Brief, NVE raised new arguments that Innovation Ventures, LLC ("Living Essentials") believes need to be addressed for the Court to have a full understanding of the issues on summary judgment.

Pursuant to L.R. 7.1, Living Essentials sought concurrence in the relief requested. The general content of the motion was discussed and NVE's counsel indicated that it would not oppose the motion.

Respectfully submitted,

**BROOKS KUSHMAN P.C.**

By: /s/ Thomas W. Cunningham  
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Dated: June 4, 2009



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**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that on June 4, 2009, I electronically filed the foregoing document with the Clerk of the Court for the Eastern District of Michigan using the ECF System which will send notification to the following registered participants of the ECF System as listed on the Court's Notice of Electronic Filing: Thomas W. Cunningham, Douglas P. LaLone, Marc Lorelli, Phyllis Golden Morey, R. Terrance Rader, Leigh C. Taggart.

I also certify that I have mailed by United States Postal Service the paper to the following non-participants in the ECF System: None

**BROOKS KUSHMAN P.C.**

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